

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION**

J. D. EVANS, INC.,
a South Dakota corporation,

Plaintiff,

VS.

**VOLVO GROUP NORTH
AMERICA, INC.,**
a Delaware corporation,

**VOLVO CONSTRUCTION
EQUIPMENT
NORTH AMERICA, INC.,**
a Delaware corporation,

**VOLVO ROAD MACHINERY,
INC.,** a North Carolina corporation,

INGERSOLL-RAND COMPANY,
a New Jersey corporation,

Defendants.

Case No. 08-4059

The Hon. Lawrence Piersol

**Defendant Volvo Group
North America, Inc.'s
Motion for Summary
Judgment**

Pursuant to Rule 56(c) of the Federal Rules of Civil Procedure, Defendant Volvo Group North America, Inc. (“Volvo Group”) files this Motion for Summary Judgment. As shown in Volvo Group’s supporting memorandum of law, no genuine issue of material fact exists and Volvo Group is entitled to judgment as a matter of law on all of the causes of action asserted by Plaintiff.

Dated at Sioux Falls, South Dakota this 29th day of September, 2009.

/s/ Eric R. Johnson

Eric R. Johnson

Thomas M. Frankman

Eric R. Johnson

Davenport, Evans, Hurwitz & Smith LLP

206 West 14th Street

P.O. Box 1030

Sioux Falls, SD 57101-1030

Phone: 605-336-2880

Fax: 605-335-3639

Email: TFRANKMAN@DEHS.COM

Email: EJOHNSON@DEHS.COM

David R. Jarrett

(admitted pro hac)

Baker & Hostetler LLP

1000 Louisiana Street, Suite 2000

Houston, Texas 77002-5009

Phone: 713-646-1347

Fax: 713-751-1717

Email: DJARRETT@BAKERLAW.COM

*Counsel for Volvo Group North America,
Inc., Volvo Construction Equipment
North America, Inc., Volvo Road
Machinery, Inc. and Ingersoll-Rand
Company*

CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2009, a true and correct copy of this document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's ECF system. Parties may access this filing through the Court's system.

Michael P. Healy
The Healy Law Firm, LLC
1100 Main Street, Suite 2600
Kansas City, MO 64105
Phone: 816-472-8800
Fax: 816-472-8803
mphealy@healylawyers.com

Counsel for Plaintiff J. D. Evans, Inc.

/s/ Eric R. Johnson

Eric R. Johnson